

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

Arizona Corporation Commission

2 COMMISSIONERS

DOCKETED

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

MAR - 9 2005

DOCKETED BY

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6 IN THE MATTER OF THE APPLICATION OF
7 THE ARIZONA DEPARTMENT OF
8 TRANSPORTATION FOR THE MODIFICATION
9 OF EXISTING CROSSINGS OF THE
10 BURLINGTON NORTHERN AND SANTA FE
RAILWAY IN THE CITY OF GLENDALE,
MARICOPA COUNTY, ARIZONA, AT AAR/DOT
NOS. 025-418-A2, 025-418-A1, 025-417-T1, 025-
417-T2, 025-416-L, 025-415-E2, AND 025-415-E1.

DOCKET NO. RR-02635B-04-0865

DECISION NO. 67678

OPINION AND ORDER

11 DATE OF HEARING: February 3, 2005

12 PLACE OF HEARING: Phoenix, Arizona

13 PRESIDING OFFICER: Marc E. Stern

14 APPEARANCES: Mr. Timothy Sabo, Staff Attorney, Legal Division, on
15 behalf of the Utilities Division of the Arizona
Corporation Commission.

16 **BY THE COMMISSION:**

17 On December 2, 2004, the Arizona Department of Transportation ("ADOT") submitted to the
18 Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the
19 approval of an agreement between ADOT and the Burlington Northern and Santa Fe Railway
20 Company ("Railroad") to modify the Railroad's crossings in the City of Glendale, Arizona at
21 AAR/DOT Nos. 025-418-A2, 025-418-A1, 025-417-T1, 025-417-T2, 025-416-L, 025-415-E2, and
22 025-415-E1 ("Application").

23 On January 4, 2005, by Procedural Order, the Application was set for a hearing and ADOT
24 was ordered to notify any interested party of the Application and the hearing.

25 On January 7, 2005, ADOT certified that it provided notice pursuant to the terms of the
26 Procedural Order

27 On February 3, 2005, a full public hearing was held before a duly authorized Administrative
28 Law Judge of the Commission at its offices in Phoenix, Arizona. The Commission's Railroad Safety

Section was present with counsel. At the conclusion of the hearing, the matter was taken under advisement pending submission of a recommended Opinion and Order to the Commission.

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On December 2, 2004, ADOT filed an Application in which it requested an Opinion and Order from the Commission for the approval of an agreement between ADOT and the Railroad for the modification of seven crossings in the City of Glendale, Arizona where they cross the Railroad's tracks and Grand Avenue at AAR/DOT Nos. 025-418-A2, 025-418-A1, 025-417-T1, 025-417-T2, 025-416-L, 025-415-E2, and 025-415-E1.

2. On January 7, 2005, ADOT filed certification that it provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on February 3, 2005.

4. The Application provides for the Railroad to modify and improve three crossings as follows:

- AAR/DOT No. 025-418-A1, M.P. 183.91, N. 59th Avenue, cantilever flashing lights will be upgraded with LED lights;
- AAR/DOT No. 025-418-A2, M.P. 183.91, W. Glendale Avenue, cantilever flashing lights will be upgraded with LED lights; and
- AAR/DOT No. 025-415-E2, M.P. 183.70, W. Myrtle Avenue, cantilever flashing lights with automatic gates will be upgraded with LED lights.

5. Additionally, the present six point crossing at the intersection of W. Glendale Avenue, N. 59th Avenue and Grand Avenue will be reduced to a four way intersection as Grand Avenue will be lowered and pass under W. Glendale and N. 59th Avenues.

6. The Application also provides for the Railroad to modify and close the following crossings:

- AAR/DOT N. 025-417-T1, M.P. 183.83, N. 59th Drive;

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- AAR/DOT No. 025-417-T2, M.P. 183.83, W. Glenn Drive;
- AAR/DOT No. 025-416-L, M.P. 183.70, W. Palmaire Drive; and
- AAR/DOT No. 025-415-E1, M.P. 183.59, N. 61st Avenue.

7. Staff testified that the cost apportionment for the modification of the crossings as provided in the Application is proper.

8. Staff has recommended that the Application be approved.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. The modification of the above-described crossings are necessary for the public's convenience and safety.

4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Application should be approved as recommended by Staff.

5. After the modification of the crossings, the Railroad should maintain the crossings in accordance with A.A.C. R14-5-104.

ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application is hereby approved.

IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company shall modify the crossings as described in the Application within fifteen months from the effective date of this Decision.

IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.


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1 IT IS FURTHER ORDERED that upon completion of the crossing modifications, the
2 Burlington Northern and Santa Fe Railway Company shall maintain the crossings in compliance with
3 the A.A.C. R14-5-104.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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8 CHAIRMAN

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10 COMMISSIONER

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12 COMMISSIONER

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16 COMMISSIONER

17 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
18 Secretary of the Arizona Corporation Commission, have
19 hereunto set my hand and caused the official seal of the
20 Commission to be affixed at the Capitol, in the City of Phoenix,
21 this 9th day of March, 2005.

22 
23 BRIAN C. McNEIL
24 EXECUTIVE SECRETARY

25 DISSENT _____

26 DISSENT _____

27 MES:mlj
28

SERVICE LIST FOR: BURLINGTON NORTHERN AND SANTA FE
RAILWAY COMPANY

DOCKET NO. RR-02635B-04-0865

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